

Message Text

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INFO OCT-01 ISO-00 /004 R

DRAFTED BY ARA/LA GECHAFIN

APPROVED BY ARA HARYAN

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P 231546Z MAY 75

FM SECSTATE WASHDC

TO AMEMBASSY TOKYO PRIORITY

CONFIDENTIAL STATE 119767

FOR ASSISTANT SECRETARY ROGERS

FOLLOWING REPEAT STATE 119767 ACTION CARACAS INFO LA PAZ
QUITO LIMA MAY 22

QUOTE

CONFIDENTIAL STATE 119767

E.O. 11652: GDS

TAGS: PFOR, BBAK

SUBJECT: GULF OIL - RESPONSE TO VENEZUELAN NOTE

REF: A. STATE 114551 B. STATE 114202 C. STATE 117583

FOR AMBASSADOR

1. AS EMB AWARE, ON MAY 15 DEPT ISSUED GENERAL PUBLIC STATEMENT ON BRIBERY PROBLEM (REF A). GULF OIL BRIBERY ISSUE WAS NOT REPEAT NOT RAISED WITH ESCOVAR IN HIS MTGS WITH SECRETARY, ALTHOUGH IT WAS DISCUSSED IN CONVERSATION BETWEEN ESCOVAR AND DEPUTY ASSISTANT SECRETARY LUERS (REF C), AND DEPUTY SECRETARY TOLD ESCOVAR WE WOULD BE SENDING A REPLY NOTE. NOW THAT ESCOVAR HAS RETURNED TO CARACAS, WE BELIEVE IT DESIRABLE THAT EMB RESPOND TO GOV'S NOTE OF MAY 7 BOTH ORALLY AND IN WRITING. NOTE GIVEN PARA 2 BELOW IS DESIGNED TO CLARIFY US POSITION IN CONFIDENTIAL

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THESE MATTERS. HOWEVER,
IN PRESENTING NOTE, AMB IS REQUESTED TO MAKE THE

ADDITIONAL POINTS DISCUSSED PARA 3 BELOW.

2. FOLLOWING IS PROPOSED TEXT OF NOTE:

QUOTE:

I HAVE THE HONOR TO ACKNOWLEDGE RECEIPT OF YOUR NOTE OF MAY 7, 1975. WITH REGARD TO YOUR REQUEST FOR THE GOOD OFFICES OF THE UNITED STATES GOVERNMENT IN CLARIFYING CERTAIN ACCUSATIONS INVOLVING THE GULF OIL COMPANY WHICH DOES BUSINESS IN VENEZUELA, I UNDERSTAND THAT THE COMPANY HAS SINCE CLARIFIED THIS MATTER IN A COMMUNICATION TO THE PRESIDENT OF VENEZUELA.

I WOULD ALSO LIKE TO TAKE THIS OPPORTUNITY TO CLARIFY THE POSITION OF THE U.S. GOVERNMENT IN DIFFICULT MATTERS SUCH AS THESE RECOGNIZING, AS DOES THE GOVERNMENT OF VENEZUELA, THAT THEY ARE ESSENTIALLY BETWEEN THE PRIVATE COMPANY AND THE FOREIGN COUNTRY. THE UNITED STATES GOVERNMENT CANNOT AND DOES NOT CONDONE ILLEGAL ACTIVITIES BY U.S. ENTERPRISES ABROAD. THE UNITED STATES DISAPPROVES OF SUCH ACTIONS BY U.S. CORPORATIONS IN THE STRONGEST TERMS. ANY UNITED STATES INVESTOR WHO MAKES UNLAWFUL PAYMENTS TO OFFICIALS OF FOREIGN GOVERNMENTS CANNOT LOOK TO THE STATE DEPARTMENT TO PROTECT IT FROM LEGITIMATE LAW ENFORCEMENT ACTIONS BY THE RESPONSIBLE AUTHORITIES OF EITHER THE HOST COUNTRY OR THE UNITED STATES.

IN THIS LATTER RESPECT, THE U.S. GOVERNMENT WOULD ASSUME THAT THE INVESTIGATION AND PROSECUTION OF SUCH OFFENSES BY FOREIGN AUTHORITIES WILL BE IN ACCORDANCE WITH USUAL PROCEDURAL AND SUBSTANTIVE SAFEGUARDS AND THAT THE PENALTIES WILL NOT BE DISPROPORTIONATE TO THE OFFENSE. EVEN THOSE PERSONS OR FIRMS THAT MAY BE CHARGED WITH IMPROPER CONDUCT ARE ENTITLED TO BE TREATED FAIRLY AND IN ACCORDANCE WITH INTERNATIONAL LAW.

IN ANY EVENT, MY GOVERNMENT IS PLEASED THAT THE ACTIONS TAKEN BY GULF IN RESPONSE TO THE GOV REQUEST HAVE RESOLVED
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THE MATTER TO THE SATISFACTION OF THE GOV.

END QUOTE.

3. OUR REAL CONCERN IN THIS CASE IS TWO-FOLD: (A) WE SEE PARA 6 OF THE NOTE AS A SUBTLE SUGGESTION THAT VENEZUELA, DESPITE PRIOR ASSURANCES, MIGHT BE CONSIDERING USE OF PETROLEUM AS POLITICAL WEAPON, AND (B) WE ARE CONCERNED ABOUT THE 48-HOUR ULTIMATUM GIVEN TO GULF TO RESPOND SATISFACTORILY TO GOV REQUEST ON PENALTY OF SUSPENSION.

ON FIRST POINT, YOU SHOULD SIMPLY INDICATE THAT WE HAVE APPRECIATED GOV ASSURANCES IN THE PAST THAT PETROLEUM WILL NOT BE USED AS A POLITICAL WEAPON. THUS, WE ASSUME THAT THE VENEZUELAN NOTE, PARTICULARLY PARA 6, WAS NOT INTENDED AS ANY DEPARTURE FROM THIS POSITION.

4. REGARDING THE ULTIMATUM YOU SHOULD SAY, AFTER REFERRING TO THE PARAGRAPHS OF THE NOTE WHICH STATE U.S. POSITION WITH RESPECT TO TREATMENT TO U.S. COMPANIES THAT ARE CHARGED WITH IMPROPER ACTIONS, THAT THE USG IS SURPRISED AND CONCERNED THAT THE GOVERNMENT OF VENEZUELA WHICH IN THE PAST HAS DEVELOPED A STRONG JUDICIAL TRADITION FOR DUE PROCESS OF LAW SHOULD BY MEANS OF A 48-HOUR ULTIMATUM PROPOSE WHAT APPEARS TO BE EXTRA JUDICIAL SANCTIONS SUCH AS SUSPENSION OF AN AMERICAN COMPANY'S RIGHT TO OPERATE, ON THE BASIS OF UNADJUDICATED CHARGES OF IMPROPER ACTION. IN THIS CONNECTION YOU SHOULD EMPHASIZE THE VIEW OF THE USG THAT AMERICAN NATIONALS, INCLUDING COMPANIES, MAY NOT BE DEPRIVED OF THEIR RIGHTS UNDER INTERNATIONAL LAW MERELY UPON ALLEGATIONS OF WRONG DOING AND IN ADVANCE OF JUDICIAL DETERMINATION OF THE MERITS OF THE CHARGES. YOU SHOULD INDICATE OUR ASSUMPTION THAT VENEZUELA HAS PENAL LAWS DESIGNED TO DEAL WITH BRIBERY OR OTHER OFFENSES PROHIBITED UNDER VENEZUELAN LAW, AND OUR UNEASINESS THAT WHEN FACED WITH PUBLICITY REGARDING ALLEGED GULF ACTIVITIES, GIV CHOSE TO FOLLOW A DIFFERENT PROCEDURE. OTHER COUNTRIES HAVE EMULATED GOV APPROACH WITH RESULTS THAT ARE UNFAIR TO GULF.

5. YOU MAY DRAW ON INFORMATION PROVIDED REF B IN RESPONDING TO OTHER ISSUES RAISED BY GOV. INGERSOLL

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UNQUOTE INGERSOLL

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